FILE COPY.

Office Supreme Court, U. S.
FILED.
OCT 22 1906
JAMES H. McKENNEY,
CLERK.

Supreme Court of the United States.

OCTOBER TERM, 1906.

NO. 48.

WILLIAM P. ANDREWS, *Plaintiff in Error,*

vs.

EASTERN OREGON LAND COMPANY.

In Error to the Supreme Court of the State of Oregon.

SUPPLEMENTAL BRIEF FOR PLAINTIFF IN ERROR.

With the permission of the Court, we beg to file a supplemental brief in the above entitled cause, in answer to a suggestion or inquiry from one or more of the members of the court at the oral argument, as to the consideration given by the Secretary of the Interior of the diagram of the adjustment of the grant, a certified copy of which was introduced in evidence by plaintiff in error, and also to answer a suggestion of counsel for defendant in error.

We omitted to state in answer to the inquiry by members of the court, which we now do, that the diagram referred to does not go to either the Commissioner or the Secretary

for approval or other action, but the Chief of the Railroad Division makes up from the diagram and sends to the Commissioner, for his certification, what is called a "clear list," which is a list of lands described by legal subdivision, inuring to the grant, according to this diagram, and being free from conflicts. When this certificate is signed by the Commissioner, the list is transmitted to the Secretary for his approval. *The diagram does not accompany the list and is not presented in any other way*, either to the Commissioner or to the Secretary. This statement may be verified at the Interior Department, and, as we understand the law, may be taken judicial notice of by the Court.

As to the suggestion of counsel for defendant in error made at the oral argument that plaintiff in error made no objection in the Interior Department to its action in the cancellation of his entry and the patenting of the land to the company, it is sufficient answer to say that, the finding of the trial court shows, page 15 of the Record, that on the same day his entry, which had stood for five years, was cancelled, patent was issued to the company, and hence he was given no opportunity to object.

Respectfully submitted,

S. M. STOCKSLAGER,

Attorney for Plaintiff in Error.

JAS. F. MOORE,

of Counsel.